

REMARKS

The Office Action mailed December 12, 2004 has been reviewed and the Examiner's comments carefully considered. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 7 and 13 are currently being amended. This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-19 are now pending in this application.

Information Disclosure Statement

In the Office Action, the Examiner requested that the documents listed under "Other Prior Art" on page 1 and 2 of the IDS filed May 28, 2004 be submitted for consideration. However, CFR § 1.98(d) (1)-(2) states that an applicant is not required to provide a copy of a publication listed in the information disclosure statement if the publication was previously submitted to the Office in an earlier application and (1) the earlier application is identified in the information disclosure statement and relied on in an earlier application and (2) the information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of §1.98.

Here, the present application is a divisional of application serial no. 09/866,885, now U.S. Patent No. 6,703,845. Copies of the references cited in the May 28, 2004 IDS were submitted to the Patent Office in the prior application. Accordingly, Applicant respectfully submits that copies of the references cited in the May 28, 2004 IDS do not need to be provided with the present application. Thus, Applicant respectfully requests reconsideration of the references cited in the May 28, 2004 IDS.

Claim Rejections under U.S.C. § 102

The Examiner rejected claims 1-19 under 35 U.S.C. § 102(b) as being anticipated by Höwing et al. (U.S. Patent 5,525,843). Claims 1, 7 and 13 have been amended to further define the invention. The rejection should be withdrawn because Höwing et al. does not disclose, teach or suggest each and every element of independent claims 1, 7 and 13 as amended.

For example, Höwing et al. fails to teach a method for providing for sensing an occupant in a seat, wherein the seat incorporates a seat heater comprising “placing a heating element in the seat, placing a first electrode between said heating element and a seating region” and “placing a second electrode between said heating element and said first electrode” as claimed in amended claims 1 and 7. Further, Höwing et al. does not disclose an apparatus having “a heating element positioned in said seat, a first electrode located between said heating element” and “a second electrode located between said heating element and said first electrode” as claimed in amended claim 13.

Höwing et al. does disclose “a first electrode 14 which may or may not constitute a heating element” and “a second electrode 15.” (See Col. 4, lines 26-31; Figs. 3-4). However, Höwing et al. does not disclose a distinct first electrode positioned between a heating element and a seating element. Nor does Höwing et al. teach or suggest a second electrode positioned between the first electrode and the distinct heating element. In contrast, as shown in Figure 2 of the application, the present invention comprises a first electrode 40 between said heating element 34 and a seating region 20. Further, the present invention recites a second electrode 82 between the first electrode 40 and said heating element 34. Höwing et al. clearly does not disclose two electrodes positioned between a heating element and a seating region. Thus, the inventions of claims 1, 7 and 13 as amended are not disclosed and the rejection should be withdrawn.

Each of claims 2-6, 8-12 and 14-19 depend from either claims 1, 7 or 13 and are therefore patentable for at least the reasons set forth above. These patentable limitations include, for example, an occupant seat “wherein said second electrode comprises a sheath at least partially around at least a portion of said heating element,” as claimed in claims 3, 9 and

15. The sheath is denoted by reference numerals 82 and 82' in Fig. 2. In contrast, Höwing et al. does not teach, suggest or disclose an occupant sensor "wherein said second electrode comprises a sheath at least partially around at least a portion of said heating element" as claimed in claims 3, 9 and 15. Thus, reconsideration and withdrawal of the rejections of claims 2-6, 8-12 and 14-19 is respectfully requested.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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